



## STATE BOARD OF LAND COMMISSIONERS

C. L. "Butch" Otter, Governor and President of the Board

Ben Ysursa, Secretary of State

Lawrence G. Wasden, Attorney General

Donna M. Jones, State Controller

Tom Luna, Superintendent of Public Instruction

George B. Bacon, Secretary to the Board

### Final Minutes Regular Land Board Meeting May 15, 2008

The regular meeting of the Idaho State Board of Land Commissioners was held on Thursday, May 15, 2008 in Boise, Idaho. The meeting began at 9:08 a.m. in the second floor courtroom of the Borah Post Office building. The Honorable Governor C. L. "Butch" Otter presided. The following members were present:

Honorable Secretary of State Ben Ysursa  
Honorable Attorney General Lawrence Wasden via conference phone  
Honorable State Controller Donna Jones  
Honorable Superintendent of Public Instruction Tom Luna

Secretary to the Board George Bacon was absent. Deputy Director Kathy Opp served as Secretary to the Board for this meeting.

#### • **CONSENT**

**Deputy Director Opp noted that the items under the Consent Agenda represent the Department's routine actions. A motion was made by Controller Jones to move that the Consent Agenda be approved as presented. Attorney General Wasden seconded the motion.**

*DISCUSSION:* Secretary of State Ysursa noted that the Board usually reviews each item separately under the Consent Agenda and then moves approval of those items. That process allows questions to be asked about items listed under the Consent Agenda before a motion for approval is requested. Governor Otter asked if the maker of the motion, along with the second, would consider amending or withdrawing their motion until the entire Consent Agenda is reviewed. As the second, Attorney General Wasden gave his consent. The maker of the motion, Controller Jones, also consented.

**Deputy Director Opp presented each Consent Agenda item. A motion was made by Secretary of State Ysursa to approve the Consent Agenda in its entirety. Controller Jones seconded the motion. The motion carried on a vote of 5-0.**

#### **1. Director's Report – approved**

- A. Interest Rate on Department Transactions – May 2008
- B. Timber Sale Activity Report
- C. Timber Sale Official Transactions – April 2008

- D. Legal Matter Summary
- E. Bureau of Surface and Mineral Resources, Official Transactions – March 2008
- F. Bureau of Real Estate, Official Transactions, Land Sale – March 2008
- G. Bureau of Real Estate, Official Transactions, Easement – March 2008
- H. Fire Settlement Information

**DISCUSSION:** Regarding item E, Bureau of Surface and Mineral Resources Official Transactions, Secretary of State Ysursa asked that future reports include premium rent information. If premium rent was collected, include the dollar amount. If no premium rent was collected, indicate that as well.

**2. Timber Sales – Staffed by Roger Jansson, Operations Chief-North, and Kurt Houston, Operations Chief-South – approved**

NORTH OPERATIONS

A. Bear Meadow	CR-10-0375	6300	MBF	Bonner
B. Springdale	CR-20-0264	3250	MBF	Bonner
C. Lindley-Clover OSR	CR-41-0036	3120	MBF	Clearwater
D. Teakean Pole	CR-41-0046	735	MBF	Clearwater
		217785	LF	Clearwater

SOUTH OPERATIONS

E. Woodrat-Maggie Pole	CR-42-5029	1282	MBF	Idaho
		287250	LF	Idaho

**3. Application for Dredge/Placer Permit No. 329 (Emerald Creek Garnet) – Staffed by Eric Wilson, Program Manager, Navigable Waters/Minerals Regulatory Program – approved**

**DEPARTMENT RECOMMENDATION:** Approve issuance of the attached permit subject to the plan submitted in the application, submission of the required \$7,200 bond and compliance with the Rules and Regulations Governing Dredge and Placer Mining Operations in Idaho.

**DISCUSSION:** Governor Otter noted that the Forest Service did have questions about stream channel protection. Deputy Director Opp stated that is correct; however, the plan resolved those issues.

**BOARD ACTION:** Approved.

**4. Minutes – approved**

- A. Regular Land Board Meeting – April 17, 2008

• **REGULAR**

**5. Endowment Fund Investment Board**

- A. Monthly Report – *Presented by Larry Johnson, Manager of Investments*
- B. Investment Report – *Presented by Larry Johnson, Manager of Investments*
- C. Endowment Fund Investment Board Semi-Annual Report – *Presented by Dean Buffington, Chairman, Endowment Fund Investment Board*

Dean Buffington, Chairman, Endowment Fund Investment Board, explained that the EFIB traditionally meets twice a year with the Land Board. He introduced the other EFIB board members: Gavin Gee, Max Black, Vaughn Heinrich, Tom Kealey, Brad Little, Sue Simmons, Richelle Sugiyama, and John

Taylor. He noted that the EFIB will hold one of their regular meetings following their departure from the Land Board meeting this morning.

Larry Johnson, Manager of Investments, stated April was a good month with the Fund returning 3.8%, moving fiscal year-to-date returns to a positive 1.1%. Mr. Johnson introduced EFIB staff Chris Halvorson, Andy Potter and Judy Shock. In addition, he introduced Michael O'Leary and Jay Kloepper (Callan Associates); Dave Richardson and Rhet Hulbert (Clearwater Associates).

Mr. Johnson provided background information on the EFIB semi-annual report.

*DISCUSSION:* Secretary of State Ysursa noted that receipts in the first nine months show an 11% increase. He asked if that increase is attributable to timber. Mr. Johnson stated it is. Secretary of State Ysursa asked how the Department of Lands' timber forecasting is figured in the EFIB's equation. Deputy Director Opp stated the Department provides the EFIB with an annual update that attempts to forecast at least three years out. Timber sales are generally three-year contracts. While it is true softening prices are being seen in the timber market, pole prices are remaining fairly strong so it is a slower decline. The Department will provide the EFIB with updated information based on anticipated lower prices.

Governor Otter asked about the potential cut increase from 212 MBF to 222 MBF. He asked if the Department has analyzed the increase taking into account current lower market prices. Deputy Director Opp stated that with three-year contracts, the current pricing slump would start hitting revenues perhaps a year from now. However, since the Department will be bringing additional wood to market, the various activities could offset each other. Governor Otter asked that the Department provide a revenue forecast at the next meeting to allow Board members to review the assumptions being provided to the EFIB. Deputy Director Opp stated the Department would provide the analysis as requested.

Secretary of State Ysursa noted that it appears the time lag in the three-year timber sale contract period could cause the revenue impact to occur two or three years from now. Deputy Director Opp stated that is correct.

Mr. Johnson commented that the Earnings Reserves play a strong role in this discussion. Having a high level of Earnings Reserves protects us so that normal market variations can be tolerated and distributions can continue without reductions.

No action taken on this agenda item.

**6. Proposed Meeting Date Change for the Regular Meetings of the State Board of Land Commissioners – Presented by Kathy Opp, Deputy Director**

*DEPARTMENT RECOMMENDATION:* That beginning with the August 19, 2008 regular meeting of the State Board of Land Commissioners, the regular meetings of the Board will generally fall on the third Tuesday of each month to coincide with meetings of the State Board of Examiners. Within this policy it is recognized that the Board can call a regular meeting at any time as prescribed by law and may vary from the third Tuesday as deemed necessary.

*DISCUSSION:* Superintendent Luna expressed his appreciation for this date change. He noted he may have a conflict with the June and October meetings. To assist Superintendent Luna, Governor Otter suggested that the Department keep Superintendent Luna apprised of the agenda items to allow him the option of joining the meeting by conference call at a time certain for specific items of interest to the Superintendent.

*BOARD ACTION:* A motion was made by Secretary of State Ysursa to move the Department's recommendation. Controller Jones seconded the motion. The motion carried on a vote of 5-0.

**7. Authorization to Initiate Proposed Rulemaking for IDAPA 20.02.01, Rules Pertaining to the Idaho Forest Practices Act** – *Presented by Kathy Opp, Deputy Director*

*DEPARTMENT RECOMMENDATION:* Direct the Department to initiate rulemaking to update IDAPA 20.02.01, Rules Pertaining to the Idaho Forest Practices Act.

*DISCUSSION:* Governor Otter suggested that the Department contact Nate Fisher, Administrator, Office of Species Conservation, for additional input. Mr. Foss stated the Department would do so.

*BOARD ACTION:* A motion was made by Controller Jones to direct the Department to initiate rulemaking to update IDAPA 20.02.01, Rules Pertaining to the Idaho Forest Practices Act. Superintendent Luna seconded the motion. The motion carried on a vote of 5-0.

**8. Pilgrim Cove Water System** – *Presented by Bob Brammer, Assistant Director, Lands, Minerals, Range*

*DEPARTMENT RECOMMENDATION:* That the Board direct the Department to disburse the remaining balance in the fund, \$45,428.03, to the Pilgrim Cove Homeowners Association *dba* The Cove Association, Inc.

*DISCUSSION:* Governor Otter asked if each site is drilling its own well. Assistant Director Brammer stated that is correct. Although not all sites have completed drilling, it was the homeowners' preferred alternative to reconstruction of the system.

*BOARD ACTION:* A motion was made by Secretary of State Ysursa to move the Department's recommendation to refund the balance in the fund to the Pilgrim Cove Homeowners. Attorney General Wasden seconded the motion. The motion carried on a vote of 5-0.

• **INFORMATION**

Background information was provided by those indicated as presenters (below). No Land Board action is required on the Information Agenda.

**9. Carbon Sequestration** – *Presented by Richard Furman, Strategic Issues and Program Development Specialist*

*DISCUSSION:* Richard Furman provided background information on this agenda item.

Governor Otter noted that the new director for the Department of Commerce, Donald Dietrich, was formerly an energy trader in Europe. Governor Otter has asked Director Dietrich to review the total concept of carbon trading and cap-and-trade in Idaho. Although the Department of Lands is one of the largest potential values in Idaho cap-and-trade, other agencies, such as the departments of Fish and Game, Transportation and Water Resources would also play a role. He encouraged Mr. Furman to continue forward with his involvement in this effort.

Governor Otter commented that the Western Governors' Association is also very interested in this topic. He offered to provide Mr. Furman with information from the WGA and from the Department of Commerce.

**10. Agricultural Leasing Program** – *Presented by Bob Brammer, Assistant Director, Lands, Minerals, Range*

*DISCUSSION:* None.

**11. Idaho Department of Lands Participation in the Western States Land Commissioners Association Booth at RECON, the Global Retail Real Estate Convention, Sponsored by the International Council of Shopping Centers** – *Presented by Jane Wright, Strategic Business Analyst, and Craig Thompson, Commercial Leasing Program Manager*

*DISCUSSION:* Background information was provided by Department staff. Governor Otter asked if this same information has been given to Idaho developers. Mr. Craig Thompson stated yes. The Department has contacted developers who have worked with states with similar properties.

As a part of this agenda item, Ms. Jane Wright displayed and explained the Idaho Department of Commerce-created web site [gemstateprospector.com](http://gemstateprospector.com). The purpose of the site is to allow the State of Idaho, or real estate brokers, to list Idaho commercial properties for lease or sale. Ms. Wright stated one of the outstanding features of this site is that it provides valuable marketing information to companies considering opening businesses in Idaho.

Secretary of State Ysursa noted the site does not indicate that the state properties are available for lease and that sale is only accomplished by public auction. Ms. Wright stated that is correct. If asked, the Department will respond that at this time, the properties can be leased, and we will negotiate a lease. It is conceivable that within two to three years the State would be able to sit down and negotiate a sale price, but at this time, the state Constitution requires a public auction. Secretary of State Ysursa commented it will be interesting to see what kind of feedback we receive regarding the sale situation.

Deputy Director Opp noted that the Department has pointed the public to the Department of Commerce for information. We want to be sure that people make contact with a representative who knows how to speak to all things that developers and builders want to know, like tax incentives, etc. The Department is very pleased with its partnership with the Department of Commerce.

**ITEM NOT ON AGENDA – NO BOARD ACTION TAKEN**

- **Land Board Grazing Subcommittee** – *Presented by Attorney General Wasden*

Attorney General Wasden provided background information. The Subcommittee is soliciting input from affected parties regarding concerns or opportunities for improvement of the process in grazing leases. The deadline for making comment is June 13, 2008.

*DISCUSSION:* Secretary of State Ysursa commended Attorney General Wasden for this action. He asked if the letter soliciting comments was sent to all facets of people who would be interested, including those who do not agree with the process. Attorney General Wasden stated yes. This process includes a variety of philosophical views, and we have tried to be as broad as possible in terms of inviting input. It is very important to gather information from a variety of different backgrounds and viewpoints in order to make good recommendations. Attorney General Wasden noted that the letter draws a distinction between federal government management of multiple use and the juxtaposition to the Constitution-mandated endowment lands, which are required to produce the maximum long-term return.

At 10:35 a.m., a motion was made by Attorney General Wasden to resolve into Executive Session pursuant to Idaho Code § 67-2345(1)(c). Attorney General Wasden requested unanimous consent that the motion to resolve into Executive Session be made for the purpose of considering acquisition of real property which is not owned by a public agency. Hearing no objection, the Board resolved into Executive Session by unanimous consent.

• **EXECUTIVE SESSION**

- A. ~~To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student; [Idaho Code § 67-2345(1)(b)] – **withdrawn**~~
- B. To conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency; [\[Idaho Code § 67-2345\(1\)\(c\)\]](#)
- C. ~~To consider records that are exempt from disclosure as provided in chapter 3, title 9, Idaho Code; [Idaho Code § 67-2345(1)(d)] – **withdrawn**~~
- D. ~~To communicate with legal counsel for the public agency to discuss controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement. [Idaho Code § 67-2345(1)(f)] – **withdrawn**~~

At 10:46 a.m., a motion was made by Attorney General Wasden to resolve into Regular Session and that the minutes of the regular session reflect the general tenor of our discussion in the Executive Committee about disclosing the matters that were confidential pursuant to Idaho Code § 67-2345(1)(c), to conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency. Controller Jones seconded the motion. The motion carried on a vote of 5-0.

At 10:46 a.m., a motion was made by Superintendent Luna to adjourn. Attorney General Wasden seconded the motion. The motion carried on a vote of 5-0. Meeting adjourned.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ C. L. "Butch" Otter

President, State Board of Land Commissioners and  
Governor of the State of Idaho

/s/ Ben Ysursa

Ben Ysursa  
Secretary of State

/s/ George B. Bacon

George B. Bacon  
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the June 19, 2008 regular Land Board meeting.